

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

GWEN BRYANT

v.

KROGER TEXAS L.P.

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§

CASE NO. 4:21-cv-80

NOTICE OF REMOVAL

PLEASE TAKE NOTICE THAT Defendant Kroger Texas L.P. (hereinafter referred to as “Defendant”) while fully reserving all rights and defenses, files this Notice of Removal to the United States District Court for the Southern District of Texas, Houston Division. Removal is proper under 28 U.S.C. §§1332 and 1441(a) because this is an action over which the United States District Court for the Southern District of Texas, Houston Division, has original diversity jurisdiction, as it is an action between citizens of different states and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. In support of its Notice of Removal, Defendant respectfully would show as follows:

I. GROUNDS FOR REMOVAL

1. This case is removable to this Court based on diversity jurisdiction under 28 U.S.C. §§1332 and 1441(a).
2. Plaintiff Gwen Bryant (hereinafter referred to as “Plaintiff”) is a citizen of the State of Texas who resides in Harris County, Texas.
3. Defendant Kroger Texas L.P. is a limited partnership organized and existing under the laws of the State of Ohio.
4. As described more fully below, Plaintiff seeks to recover from the Defendant an amount in excess of \$75,000.00, excluding interest and costs, in her state court action.

II. PENDING STATE SUIT

5. On or about December 10, 2020, Plaintiff filed a civil action against Defendant in Cause No. 2020-79324 styled *Gwen Bryant v. Kroger Texas, L.P.* in the 333rd District Court of Harris County, Texas.¹

6. According to Plaintiff's Original Petition, she was allegedly injured at a Kroger store located in Harris County, Texas, which was allegedly owned and operated by Defendant.²

7. Plaintiff claims that while "walking through the store, she slipped" and fell to the ground.³

8. The name and address of the Court from which the case is being removed is:

333rd District Court
Harris County Civil Courthouse
201 Caroline
Houston, Texas 77002

III. STATE COURT DOCUMENTS

9. The following documents are attached to this Notice of Removal:

Exhibit "A" Plaintiff's Original Petition.

Exhibit "B" Notice of Service of Process.

Exhibit "C" Defendant's Original Answer.

Exhibit "D" An index of matters being filed.

D-1 Copy of the state court Docket Sheet/Record.

D-2 Copy of process.

D-3 A list of all counsel of record, addresses, telephone numbers, and parties.

D-4 Civil Cover Sheet.

¹ See Pl.'s Original Pet. attached hereto as Exhibit A.

² *Id.* at p. 2-3.

³ *Id.* at p. 2.

IV. TIMING OF REMOVAL

10. Defendant was served with Plaintiff's Original Petition through its registered agent for service of process, CSC Corporation Service Company, on December 11, 2020.⁴ This Notice of Removal is being filed within 30 days of service of the Original Petition upon Defendant and is timely filed under 28 U.S.C. §1446(b).

V. JURISDICTION

11. Pursuant to 28 U.S.C. §1332, a defendant has a right to remove a case to federal court if the case involves a dispute between completely diverse parties and the amount in controversy, excluding interest and costs, exceeds \$75,000.00.

12. Plaintiff seeks damages of more than \$200,000 but not more than \$1,000,000.⁵ Based on the allegations in Plaintiff's Original Petition, this matter is removable to this Court under 28 U.S.C. §1332 because the amount in controversy, excluding interests and costs, exceeds \$75,000.00.

13. Plaintiff also alleges in her Original Petition that she is a resident of Texas.⁶

14. Defendant Kroger Texas L.P. is a limited partnership organized and existing under the laws of the State of Ohio.

15. Accordingly, there exists complete diversity of citizenship between Plaintiff and Defendant under 28 U.S.C. §1332.

VI. VENUE

16. Pursuant to 28 U.S.C. §1441(a), venue for this action is proper in the United States District Court for the Southern District of Texas, Houston Division, as it is the federal

⁴ See Notice of Service of Process attached hereto as Exhibit B.

⁵ See Pl.'s Original P. attached as Exhibit A, p. 9.

⁶ *Id.* at p. 1.

judicial district that encompasses the 333rd District Court of Harris County, Texas where the state action was originally filed.

VII. NOTICE TO ADVERSE PARTIES AND TO STATE COURT

17. As the removing party, Defendant will give Plaintiff prompt written notice of this Notice of Removal as required by 28 U.S.C. §1446(d).

18. Defendant will also file a copy of this Notice of Removal with the 333rd District Court, where the state court action is currently pending, as required by 28 U.S.C. §1446(d).

VIII. ANSWER

19. Defendant timely filed an answer in the state court action. By removing this action to this Court, Defendant does not waive any defenses, objections, or motions available to it under state or federal law, and will timely file responsive pleadings to Plaintiff's Original Petition in this Court as well.

PRAYER

20. For these reasons and in conformity with 28 U.S.C. §1446, Defendant respectfully removes the civil action styled *Gwen Bryant v. Kroger Texas, L.P.* and bearing Cause No. 2020-79324 on the docket of the 333rd District Court of Harris County, Texas. Defendant prays for such other and further relief, both general and special, at law and in equity, to which it may show itself justly entitled.

Respectfully submitted by,

/s/ Adraon D. Greene

Adraon D. Greene

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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of January, 2021, a copy of the above and foregoing was filed electronically with the Clerk of Court using the CM/ECF system, which will send a notice of electronic filing to all CM/ECF participants. I also certify that I have forwarded this filing by regular U.S. Mail, postage pre-paid, this same day to all non-CM/ECF participants.

Via CM/ECF:

Jeffrey N. Todd

THE TODD LAW GROUP, PLLC

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Houston, Texas 77034

ATTORNEY FOR PLAINTIFF

/s/ Daniel D. Schick

Adraon D. Greene

Daniel D. Schick